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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,878	04/16/2004	Yujun Li	AA616M	8617

27752 7590 08/29/2005

THE PROCTER & GAMBLE COMPANY
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EXAMINER

VANIK, DAVID L

ART UNIT PAPER NUMBER

1615

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,878

Applicant(s)

LI ET AL.

Examiner

David L. Vanik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/29/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Receipt is acknowledged of the applicant's Oath or Declaration filed on 7/19/2004. Receipt is also acknowledged of applicant's Information Disclosure Statement filed on 10/29/2004.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/85112 ('112).

'112 disclose shaving cream formulations comprising cationic surfactants and antiseptic components (abstract). Like the instant application, suitable cationic surfactants include behenyltrimonium chloride and centrimonium chloride (page 1, lines 13-28; page 2, lines 17-32; and Tables 1-2). The cationic surfactant may be present in

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an amount between 5 – 25%(page 2, lines 29-32). The compositions advanced by '112 may also comprise between 1 –15% of a high melting point fatty compound, such as cetearyl alcohol, 1 –15% of a polysorbate having the structure enumerated in the instant claim 1c, such as polysorbate-60, and an aqueous carrier, such as water (page 4, line 24 – page 5, line 8; and page 5, lines 18-19; and Tables 1 and 2). The ratio of the components meets the limitations set forth in the instant claims 7-8. These components are embodied in Tables 1 and 2 of '112. As set forth on page 7, line 8 of the instant specification, polysorbate-60 has a HLB value of 14.9.

The claims are therefore anticipated by WO 01/85112 ('112).

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,567,038 ('038).

'038 disclose a sunscreen composition comprising 0.1 –2% of a nonionic surfactant, 2.0 – 15.0% of an alcohol, 0.5 – 10.0% of a non-ionic film former, 0.1 – 8.0% of a water-soluble silicone plasticizer, 0.1 – 5.0% of a cationic surfactant, and water (Claim 1). The ratio of the components meets the limitations set forth in the instant claims 7-8. Suitable non-ionic surfactants include polysorbate-20, which has a HLB value of 16.7 (Examples 2-17 and page 7, line 6 of the instant specification). Stearyl alcohol, a high melting point fatty compound, can be used in the instant invention while isododecylbenzyl triethanolammonium chloride is a suitable cationic surfactant (column 3, lines 43-44 and column 8, lines 36-41).

The claims are therefore anticipated by US 4,567,038 ('038).

Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 2004/035016 ('016).

'016 disclose conditioning compositions comprising from about 0.01 – 10% of a cationic cross-linked polymer, from about 0.1 – 10% of a cationic surfactant, from about 0.1% to about 20% of a high melting point fatty compound, and an aqueous\carrier (abstract and Example 1; page 12-13). According to '016, suitable cationic surfactants include INCROQUAT TMC-80 and preferable high molecular weight fatty acid compounds include strearyl alcohol (page 6, lines 10-23 and page 8, lines 1-3). The silicone compounds in the '016 application include a blend of at least two compounds having a viscosity between 1,000 to about 2,000,000 centistokes (page 9, lines 1-12). According to '016, the composition may also comprise from about 0.01% - 5% of a nonionic low melting point surfactant (page 11, lines 15-24). Specific examples of nonionic low melting point surfactants include polysorbate-20 and polysorbate-60, both of which have a HLB value of over 10 (page 11, lines 15-24).

The claims are therefore anticipated by WO 2004/035016 ('016).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/85112 ('112) in view of US 6,610,280 ('280).

The teachings of '112 are discussed above. '112 does not disclose a composition comprising silicones.

'280 teach compositions comprising two silicones (abstract and column 2, lines 42-47). The silicones can be present in a composition from about 0.1 to 20% (column 2, lines 48-50). According to '280, the first silicone can have a viscosity of between 100,000 to 1,000,000 mm²/sec at 25°C and the second silicone can have a viscosity of less than 200,000 mm²/sec at 25°C (column 3, lines 50-60). According to '280, a blend of two silicones in a hair-care product provides excellent conditioning benefits (column 2, lines 16-24).

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Because between 0.1 – 20% of a silicone blend imparts excellent conditioning benefits when used in a hair treatment product, one of ordinary skill in the art would have been motivated to add between 0.1 – 20% of a silicone blend to the hair care composition proposed by '112. Based on the teachings of '280, there is a reasonable expectation that the addition of a silicone blend to a hair-care product would result in a hair treatment product with excellent conditioning benefits. As such, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add between 0.1 – 20% of a silicone blend to the hair-care product advanced by '112 in view of the teachings of '280.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6,316,545 is cited as a patent of interest in its disclosure of a hair-care product comprising both high viscosity and low viscosity silicones.

Correspondence


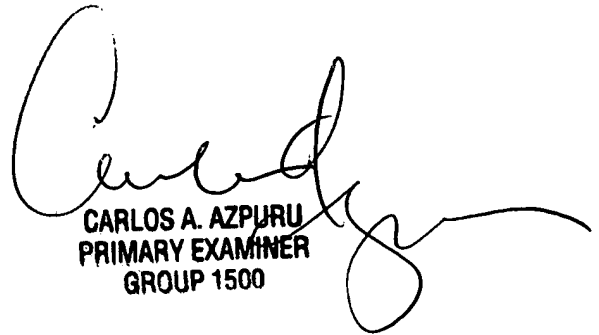
Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Vanik whose telephone number is (571) 272-3104. The examiner can normally be reached on Monday-Friday 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carlos Azpuru, can be reached at (571) 272-0588. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Vanik, Ph.D.
Art Unit 1615


8/18/05
CARLOS A. AZPURU
PRIMARY EXAMINER
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